

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Suits – A.P.H.C. – Implementation of the orders of the Hon'ble High Court dated 24-12-2010 in W.P.No.5189 of 2006 filed by Sri P.Rama Linga Reddy, Librarian, S.A.R.M. Degree College, Allgadda, Kurnool District for regularization of his service in to Grant-in-Aid post in terms of the orders issued in G.O.Ms.No.12 Education Dept., dt. 10-01-1992 – Orders – Issued.

HIGHER EDUCATION (CE.II-2) DEPARTMENT

G.O.Rt.No. 776

Dated:21-10-2011.

Read the following:-

1. Orders of the Hon'ble High Court dated 24-12-2010 in W.P.No.5189 of 2006 filed by Sri P.Rama Linga Reddy, Librarian, S.A.R.M. Degree College, Allgadda, Kurnool District.
2. From the C.C.E., Lr.Rc.No.553/Admn.III/2009, dt. 9-02-2011.

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ORDER:-

The Hon'ble A.P.High Court in its judgment dated 24-12-2010 in the reference 1st read above in W.P.No.5189/2006 filed by Sri P.Ramalinga Reddy, Librarian, Sri Ankala Reddy Memorial Degree College, Allagadda, Kurnool District for regularization of services in the Grant-in-Aid post has ordered that:-

" It may be noted that in both the above cases, the prescribed procedure under G.O.Ms.No.12, dated 10-01-1992 had not been followed, requiring the relaxation of the rules contained in the said G.O. In spite of mere 'consider' orders from this Court, the Govt. swung into action, ignored its so-called ban orders in Memo. dated 17-12-1999 and accommodated the persons concerned in aided posts. In spite of the petitioner having been selected and appointed as per due procedure and in spite of a similar 'consider' order from this Court, he was denied the same benefit.

The new contention put forth in the counter that Physical Directors and Librarians were not to be admitted after 22-07-2002 to Grant-in-aid as the Government proposed to review its Grant-in-aid policy, even if considered, is belied by the material placed on record along with the reply Memo.No.7721/IE-II-2/ 2004-1, dated 31-08-2004 issued by the Government of A.P. indicates that one R.Swaroop Roseline, Physical Director, was admitted to Grant-in-aid with effect from 01-08-2002. Similar is the case with one K.Nageswara Reddy, who was appointed in the Grant-in-aid post of Physical Director in S.V.B.Junior College, Brahmanigari Matam, Kadapa, on 09-06-2003.

Thus, the above material clearly indicates that the respondent authorities are adopting a subjective and capricious approach in dealing with cases pertaining to admission to Grant-in-aid. Where it suits their purposes, violation of rules notwithstanding, a mere direction to consider is deemed sufficient to grant relief but in other cases, as in the case on hand, rejection ensues on one flimsy ground or the other.

It maybe noted that the respondent authorities left no stone unturned to defend their action in rejecting the petitioner's case. So much so, that they sought to supplement the said rejection by thinking up new reasons in their counter. As stated earlier, such an Endeavour cannot be countenanced. The impugned proceeding dated 02-12-2005, reflecting the Government's Memo. dated 11-11-2005, must stand alone and withstand scrutiny by this court in isolation. The Memo. dated 11-11-2005, to the extent relevant, reads as under:

P.T.O.

The matter has been examined "de novo" in obedience with the orders of the Hon'ble High Court of Judicature, A.P., Hyderabad. Keeping in view of the general policy decision of the Government vide orders issued in the Govt. Memo.No.41209/CE-II-1/98-2, dated 17-12-1999 directing that no Grant-in-aid post should be filled in future, Government have decided to reject the request of the management of S.A.R.M.Degree College, Allagadda, Kurnool, for absorption of the petitioner to Grant-in-aid against the existing vacancy.

Accordingly, the request of the Management of S.A.R.M. Degree College, Allagadda, for admission of Sri P.Ramalinga Reddy (un-aided) Librarian into Grant-in-aid is hereby rejected".

Thus, the only reason cited by the Government for rejecting the petitioner's case is the Government Memo. dt.17-12-1999. The Government Memo. Dated 17-12-1999 reads to this effect:

"The Government after careful examination of the proposal of the Commissioner and Director of Collegiate Education to fill up the vacant aided post in the Private Aided Colleges in the State, hereby reject the same since it is not possible to consider it favourably."

This Memo. is said to embody a policy decision. Upon a plain reading of the Memo., this Court finds it difficult to accept this submission. There is no 'considered' opinion of the Government reflected in the said Memo. to presuppose any policy emanating there from. In any event, as pointed out in the Memo. dated 11-11-2005, the Government was of the opinion that keeping in view the policy decision issued in the earlier Memo., no Grant-in-aid post should be filled in future. Perhaps, the respondent authorities failed to notice that the petitioner was appointed on 12-11-1999 i.e. before the issuance of the Memo. dated 17-12-1999. Therefore, the ground cited by the Government for rejecting his case does not stand to reason. The Memo. as rightly understood by the Government itself, is only prospective in nature. The petitioner having already been appointed to the post by the date of its issuance could therefore not be subjected to denial on its basis.

Further, this court, as stated supra, finds merit in the petitioner's contention that the respondent authorities are adopting a pick and choose selective methodology to suit their own vested interests for admitting particular incumbents to Grant-in-aid posts. This blatant arbitrariness falls foul of the principles of equality and fair play in action enshrined in Article 14 of the constitution. The respondent authorities are bound to adopt a consistent stand while dealing with these cases and their discriminatory and purely subjective and whimsical handling of similarly situated cases clearly demonstrates that their functioning is not in accordance with the rule of law. The petitioner, having been appointed as per the prescribed procedure against an aided vacancy, cannot therefore be denied approval of his appointment by the respondent authorities given the facts and circumstances of the case.

Ergo, the adamant attitude of the authorities in trying to deny the petitioner by clutching at straws, as is evident from their counter requires to be condemned.

The impugned proceedings dated 02-12-2005 and 11-11-2005 are accordingly set aside. There shall be a direction to regularize the petitioner's services in the grant-in-aid held by him from the date of his original appointment with all consequential benefits. The respondents shall give effect to the above direction within two (2) months from the date of receipt of a copy of this order.

Contd....3.

The W.P. is accordingly allowed with costs quantified at Rs.10,000/- (Rupees ten thousand) payable by respondents 1 and 2".

2. The Commissioner of Collegiate Education in his letter 2nd read above has stated that the G.P for Higher Education, APHC has been contacted along with the grounds for filing of an appeal. The G.P for Higher Education, APHC has opined that this is not a fit case to prefer an appeal but on the other hand, it should be complied with as it is well considered and reasoned order taking into consideration various G.Os, wherein several persons similarly placed to the petitioners were admitted to Grant-in-Aid. The Government Pleader for Higher Education, A.P. High Court has advised to comply with the order of Hon'ble APHC in W.P.No.5189/2006 at the earliest to avoid contempt proceedings. The Commissioner of Collegiate Education has requested the Government to entrust the case to the Learned Advocate-General, A.P. High Court, who is well acquainted with this issue in various related cases recently.

3. After examination of the entire matter and to comply the orders of the Hon'ble High Court referred to above, the Government hereby direct the Commissioner of Collegiate Education, to implement the Hon'ble High Court orders dated 24-12-2010 in W.P.No.5189 of 2006 filed by Sri P. Ramalinga Reddy, Librarian, S.A.R.M. Degree College, Allgadda, Kurnool District for regularization of his service in the Grant-in-Aid post in terms of the orders issued in G.O.Ms.No.12 Education Dept., dated 10-01-1992.

4. The Director of Collegiate Education, A.P., Hyderabad, shall take further action in the matter accordingly.

5. This order issues with the concurrence of Finance (PC.III) Dept., vide their U.O.No.26382-B/605/PC-III/2011 dated:23-09-2011 and U.O.No.27114/ 615/A1/ PC-III/2011, dated 12-10-2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.D.SAMBASIVA RAO,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

To

The Director of Collegiate Education, A.P., Hyderabad.

The individual 'thro' the D.C.E., Hyderabad.

The Government Pleader for Higher Education, High Court of A.P., Hyderabad.

The Accountant General, A.P., Hyderabad.

Copy to:

Finance (PC.III)/ (Expr.HE) Department.

P.S. to Spl. Secretary to C.M.

P.S. to Dy. C.M.

P.S. to Prl. Secy (HE)

SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER.